

C O P Y

December 10, 1958

Warren E. Waters
Deputy Attorney General

Laws of 1957, chapter 294

Leonard S. Hill, Comptroller
Department of Administration and Control

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CONCORD, N.H.

Dear Mr. Hill:

This is in response to your letter of December 8, 1958 in which, at the request of the Governor-elect, you ask our opinion regarding the intent for continuation of an appropriation of funds under Laws 1957, c. 294:2.

While we cannot say whether the funds to make payment are necessarily to come from General Funds, or if they might come from income of the Water Resources Board, we can state with certainty that Laws 1957, c. 294, and related statutes require an annual payment to the Towns of Pittsburg and Clarksville in the amount of \$12,500.

In RSA 481:14 - a statute which until 1955 had been unchanged since the creation of the Water Resources Board in 1935 - provision was made that property owned by the Board should be tax-exempt. It was stipulated, however, that the Board make an annual payment in lieu of taxes to the towns in which its property is located. The measure of the payment in lieu of taxes is the sum which would have been assessed against such property had it been included in the tax invoice at its tax valuation on April 1, 1934.

Laws 1955, c. 327, amended RSA 481:14 by changing the measure of the payment in lieu of taxes. It provided, generally, for recognition of the then current tax rate in the several towns and based valuation on the average assessed valuation for a period of five years prior to acquisition by the Board. It also made provision for the effect of a general revaluation of property in a given town. In order to demonstrate the full significance of the statute and its relationship to Pittsburg and Clarksville I quote a portion of it as follows:

"Betterments, changes in land use or new structures are exempted and shall not be used for the determination of such sums to be paid in lieu of taxes. Provided, however, that the provisions

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of this section shall not apply to the dam and any appurtenances thereto owned by said corporation and located in the towns of Pittsburg and Clarksville, and there shall be paid annually to said towns the sum of \$12,500 in lieu of taxes, said sum to be apportioned between said towns in the same ratio that the value of that portion of said dam and any appurtenances thereto located in each town bears to the total value of said dam and any appurtenances thereto as determined by the tax assessors of said towns."

Thus there is now incorporated into the RSA through the amendment of 1955 the requirement that Pittsburg and Clarksville be paid annually the sum of \$12,500. The quoted language indicates that the payment appears to be based upon structures built by the Board. The desirability of making payments upon such basis is a policy matter which has been resolved by the Legislature. In 1955 by the statute of that year cited the Legislature appropriated the necessary funds; and it did the same in Laws 1957, c. 294, s. 2. This rather clearly indicates the legislative intent to make the payment from General Funds. The fact that the obligation has been inserted in the permanent statutes of the State indicates, further, the legislative intent that it should be continued henceforth unless and until the Legislature changes the general statutes.

Very truly yours,

Warren E. Waters
Deputy Attorney General